

AMNESTY INTERNATIONAL

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Greece: Stop arbitrary prosecutions and arrests of conscientious objectors

Amnesty International is concerned about the latest wave of prosecutions of conscientious objectors in Greece. The organisation is concerned that their prosecution and punishment, in some cases repeatedly for the same act of refusing to perform military service on conscientious grounds, violates their right to freedom of conscience. Those who have been detained, in violation of their right to conscientious objection to military service, have been prisoners of conscience and have been subjected to arbitrary arrest and detention.

The organization also reiterates its concerns over the punitive nature of the alternative civilian service in Greece. Those who have a conscientious objection to carrying out military service are required to perform an alternative civilian service of 15 months, which is much longer than the nine months' military service in the Land Forces, where the majority of conscripts serve. As such it has a punitive nature and discriminates against conscientious objectors to military service, and therefore it is incompatible with European and international human rights standards.

Accordingly, prosecuting and punishing conscientious objectors for refusing to carry out military service or, in the case of total objectors, for also refusing to carry out the punitive and discriminatory alternative service, amounts to prosecuting and punishing them for exercising their right to freedom of conscience, in violation of Greece's international human rights obligations.

The UN Human Rights Committee (General Comment 22, 1993) and the European Court of Human Rights (*Bayatyan v. Armenia*, Grand Chamber judgment of 7 July 2011), have explicitly recognised that the right to conscientious objection to military service is protected by the right to freedom of thought, conscience and religion in Article 18 of the International Covenant on Civil and Political Rights and Article 9 of the European Convention on Human Rights respectively. International standards also stipulate that any alternative service which conscientious objectors are required to carry out is genuinely civilian, under civilian control, and not of a nature or duration which is punitive.

Moreover, the repeated prosecutions and trials of individuals for the same offence arising from the same act of conscientious objection violates Article 14 paragraph 7 of the International Covenant on Civil and Political Rights, which states that: "*No one shall be liable to be tried or punished again for an offence for which he has been finally convicted or acquitted in accordance with the law and penal procedure of each country.*"

Furthermore, the trials of conscientious objectors take place before military courts. Amnesty International opposes the trial of civilians, including conscientious objectors, by military courts, which raises serious concerns regarding their right to fair trial. The European Court of Human Rights found that a trial of a Turkish conscientious objector by a court composed exclusively of military officers was a violation of his right to a fair trial under Article 6 of the European Convention on Human Rights (*Erçep v. Turkey*, judgment of 22 November 2011).

Arrests and prosecution of conscientious objectors in violation of International Standards

Since the beginning of 2013 Amnesty International knows of at least five individuals who having been arrested and subjected to penalties for their conscientious objection: Nikolaos Karanikas (20 February and 11 June), Charalambos Akrivopoulos (19 March), Menelaos Exioglou (18 April), Michalis Tolis (3 June) and Lazaros Petromelidis (20 June). Karanikas was acquitted for the first case and the latter is pending. Akrivopoulos was sentenced to nine months imprisonment, suspended for three years, Exioglou was sentenced to five months imprisonment suspended for one year. Tolis' case is pending and Petromelidis had to pay an amount of 5,431 euros to avoid imprisonment for a previous sentence of 18 months.

In May 2013 a total objector, who had refused to serve both the compulsory military service and the punitive alternative civilian service, was sentenced to six months' imprisonment, suspended for three years, for refusing to carry out both military and alternative service.

Amnesty International is aware of at least two trials scheduled for November:

- On 5 November 2013, Oanassis Kalaitisidis, a conscientious objector on religious grounds is facing a trial at the Military Court of Appeals, in Athens. Kalaitisidis is a Jehovah's Witness who had earlier been recognised as a conscientious objector, by the Ministry of Defence. He begun to serve the alternative service, when in March 2003 he quitted citing serious family issues, and later asked for a postponement of his service. The authorities then withdrew his status of conscientious objector and declared him "insubordinate". Following that, despite having being a recognized conscientious objector until 2003, in 2012 he was convicted *in absentia* to a sentence of 2 months imprisonment, suspended for 3 years.
- On 14 November 2013, Nikolaos Krontiras, will be tried before Military Court in Thessaloniki. Nikolaos Krontiras is a total objector who first declared his objection to serve in the armed forces on ideological grounds in 1996 when there was no recognition of the right to conscientious objection in Greece. He is now 46 years old and since 2012 is no longer liable for conscription, and thus is not in risk of imminent arrest but he is charged with insubordination for the period he was liable to conscription.

Amnesty International knows of at least another two cases of individuals who even though not under the immediate threat of arrest because they are over 45 years old and thus not subject to conscription any more, still face prosecution for insubordination during the period they were liable for conscription.

Rejection of applications for conscientious objector status and applicable international standards for procedures for recognition

In the last six months, Amnesty International has received information from individuals refusing to serve the military service for reasons of conscience, who filed a request to be recognized as conscientious objectors and to serve the alternative service but had their requests rejected. Amnesty International notes that according to official statistics, provided by the Hellenic National Defence General Staff¹, during the first nine months of 2013, seven out of eight applicants interviewed by an advisory Special Committee, have had their cases subsequently rejected by the Minister or the Deputy Minister of Defence. In the first nine months of 2013, of those who appeared before Special Committee and had their cases rejected, four had cited ideological grounds, while the rest had cited religious grounds. Only one applicant who appeared before that committee and cited ideological grounds has been recognised so far this year. At least two of the rejected applicants appealed to the Deputy

¹ Letter to Amnesty International - Greek Section, 9 September 2013

Minister of Defence, but their appeals were dismissed and new calls to serve will be issued to them.

With respect to the procedures for assessing applications for conscientious objectors, the UN Commission on Human Rights in its resolution 1998/77 calls upon States, if they do not automatically accept all claims of conscientious objection as valid without inquiry, to establish independent and impartial decision-making bodies with the task of determining whether a conscientious objection is genuinely held in a specific case.

Furthermore, the UN Human Rights Committee, noting that in Greece the assessment of applications for conscientious objector status is solely under the control of the Ministry of Defence, made an explicit recommendation to the authorities to consider placing the assessment of applications under the control of civilian authorities.²

Amnesty International calls upon the Greek authorities to bring its legislation and practice concerning conscientious objection in line with European and international human rights law and standards. Conscientious objectors should not be arrested, prosecuted, fined or imprisoned for refusing conscription into the military or for refusing to carry out alternative service which is punitive or discriminatory.

² Concluding observations of the UN Human Rights Committee: Greece. 04/25/2005. CCPR/CO/83/GRC